

EXHIBIT C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES HAYDEN,

CASE NO: 1:17CV2635

Plaintiff,

v.

2K GAMES, INC., et al.,

Defendants.

Deposition of JAMES HAYDEN

Cleveland, Ohio

Wednesday, October 30, 2019 - 9:04 a.m.

Reported by:

Angela Nixon, RMR, CRR

Job No.: 26345

1 inked on real people for video games?

2 A. No.

3 Q. Has anyone ever approached you about seeking
4 permission to license tattoos you inked on real people for
5 video games?

6 A. No.

7 Q. In addition to Solid Oak, are you aware that a
8 tattooist named Alexander has filed a lawsuit against
9 Take-Two?

10 A. No, I'm not.

11 Q. Let me show you what's been marked as Exhibit 26,
12 a document baring the Bates Number Hayden 851 through 853,
13 which has a date at the top of July 13, 2009 between Nike
14 and Jimmy Hayden. Do you go by Jimmy, Mr. Hayden, a lot?

15 A. Yes, I do.

16 Q. And was this agreement actually signed and
17 entered into? The copy that we were given doesn't have a
18 signature.

19 A. Yes, it was.

20 Q. And this agreement was about you doing designs on
21 three pairs of shoes, is that right?

22 A. Correct.

23 Q. And were these new designs by you, or were these
24 existing designs that you had inked on a player?

25 MR. MCMULLEN: Objection. Go ahead.

1 A. These were designs that I currently have
2 copyrights to that I -- I did on LeBron.

3 Q. And did you -- so these were -- which designs did
4 you put on the shoes?

5 A. There was a lion on the front of the toe of, I
6 think the right shoe, and then a crown, just like the one
7 on his shoulder on the other -- left front of the shoe. It
8 said family on one side of the shoe and loyalty just like
9 the ones that are on the side of his body.

10 Q. So these were -- I'm trying to understand. These
11 were additional tattoos that you had inked on LeBron, or
12 were these part of the ones that you're already suing
13 about?

14 A. There was -- there were some additional designs
15 on the side of the shoes just like the side of his body,
16 yeah.

17 Q. So the shoes didn't have pictures of Mr. James on
18 them, they just had these images, parts of these designs?

19 A. Yes. Yes.

20 Q. And I take it that this agreement, Exhibit 26,
21 had nothing to do with video games, right?

22 A. No, there's no avatar production in these
23 video -- or video game production of this release here.

24 Q. Yeah, this was about the shoes?

25 A. Yes.

1 Q. All right. And now let's take a look at Exhibit
2 27, Hayden 1600 through at least 1601, collection of
3 e-mails between you and Will Patton. Do you see that?

4 A. Uh-huh.

5 Q. And is jimmyhayden23@aol.com, is that an e-mail
6 address you still use?

7 A. Barely, but sometimes. I still have it, it's
8 still active.

9 Q. Do you use any other e-mail addresses?

10 A. Yes.

11 Q. What do you use?

12 A. Jimmyhayden247@gmail.

13 Q. And were both of those e-mail addresses searched
14 for documents in response to our request in this case?

15 A. Yes.

16 Q. Did you do the search yourself?

17 A. The search for the documents?

18 Q. Yes.

19 A. No.

20 Q. Did your attorneys do that?

21 A. Yes.

22 Q. And this seems to be an e-mail exchange with
23 invoices for creating LeBron mannequins for China, London
24 and WHQ. Do you know what WHQ is a reference to?

25 A. I think WHQ might be -- I'm not sure, Hawaii

1 maybe. I don't know why -- I think Hawaii, I don't know.

2 Q. So can you tell me what this LeBron mannequin's
3 project was about?

4 A. Yeah. The -- there were mannequins that were
5 life size in height and dimension of LeBron, and I
6 recreated the tattoos that I had originally done on LeBron
7 on to the mannequins that were used for apparel purposes
8 and resale and so on.

9 Q. And where were these mannequins placed?

10 A. Well, here, I guess London, China, WHQ, wherever
11 that is, and a -- a multitude of cities I think.

12 Q. I guess what I'm saying, were they at Nike
13 stores, or were they at some convention?

14 A. They're at Nike -- at Nike stores, yeah.

15 Q. And did -- in addition to recreating the
16 mannequins you inked on Mr. James, did you recreate any of
17 his other -- other tattoos?

18 MR. MCMULLEN: Objection.

19 A. Whatever tattoos were visible with the jersey on.

20 Q. So you -- so because he had the jersey on not all
21 of his tattoos would be visible, is that right?

22 A. If it was visible I had to produce it.

23 Q. Okay. And that would include your tattoos as
24 well as tattoos that maybe another tattooist had inked,
25 correct?

1 A. No, just the tattoos that I did.

2 Q. So that's my question. Did you, in doing these
3 mannequins, did you ink tattoos that other people had inked
4 on Mr. James, or just yours?

5 A. These are just my tattoos that I did on LeBron.

6 Q. Do you know if there were any tattoos that were
7 visible in the area on the mannequins that somebody else
8 had done?

9 A. Not that I know of.

10 Q. And were you paid \$2,600 for preparing the
11 mannequin for China, 1,300 for London, and 2,600 for WHQ?

12 A. Correct.

13 Q. And in order to do this, did you have to -- did
14 you do this work in Cleveland, or did you have to fly
15 somewhere?

16 A. I did it at -- I think this was done at the
17 headquarters in Oregon, in Portland.

18 Q. So you flew out there and you -- did you use an
19 air brushed paint that -- for the tattoos on the
20 mannequins?

21 A. I used air brush and paint brushes.

22 Q. And then looking at what we'll mark as Exhibit
23 28, this is bearing Bates Number Hayden 1751. It appears
24 to be an e-mail exchange of October 9th, 2009 from
25 Mr. Patton to you. Do you recognize that as an e-mail you

1 got from him?

2 A. Yes.

3 Q. And in it it says, (Reading:) Listen, Nike would
4 like to request your special services again for the air
5 brushing of tattoos on a new LeBron mannequin. Do you see
6 that?

7 A. Yes.

8 Q. And did you understand that Nike was contracting
9 with you to air brush these designs on the mannequins?

10 A. Yes.

11 Q. And did you, in fact, enter into another
12 mannequin project for them after the first one?

13 A. Yes, I did.

14 Q. So let's take a look at what's been marked as
15 Exhibit 29, Hayden 388. Is that a picture of the -- one of
16 the mannequins of Mr. James that you airbrushed tattoos on?

17 A. Yes.

18 Q. And under his arms it says what we do in life and
19 echos in eternity, do you see that?

20 A. Yes, I do.

21 Q. Did you ink those phrases on Mr. James?

22 A. Yes.

23 Q. They're not part of this lawsuit, though,
24 correct?

25 MR. MCMULLEN: Objection.

1 A. Not that I remember.

2 Q. Do you have a copy of the commercial?

3 A. No.

4 Q. Did the commercial have a name?

5 A. I think it was Galaxy -- whatever phone that was
6 that was coming out at the time.

7 Q. Did Samsung ever -- or the ad agency ever reach
8 out to you and say -- and ask for a license for the tattoos
9 in the commercial?

10 A. Not that I remember.

11 Q. And I take it that this Samsung commercial had
12 nothing to do with video games?

13 A. No, no that I know of, no.

14 Q. Now, let's talk about Machine Gun Kelly. Who is
15 Machine Gun Kelly?

16 A. He is a -- he is a entertainer, music, I think
17 he's a producer, so on and so forth but he's -- he's a
18 rapper.

19 Q. And have you inked tattoos on him?

20 A. Yes.

21 Q. And have -- let me show you what's been marked as
22 Exhibit 31. This is bearing Bates Number Hayden 1657. It
23 appears to be a signed release dated September 19th, 2013.
24 Is that your signature?

25 A. Yes.

1 Q. And it says, (Reading:) The Material, Use of
2 tattoos by James N. Hayden on Machine Gun Kelly for use in
3 the picture. Do you see that?

4 A. Yes.

5 Q. Was Machine Gun Kelly going to being in a motion
6 picture called Blackbird?

7 A. Yes.

8 Q. And was he going to be -- and did you ink any new
9 tattoos on him for that motion picture?

10 A. No.

11 Q. And was it your understanding that this was about
12 getting your permission to use his preexisting tattoos in
13 this Blackbird motion picture?

14 A. Yes.

15 Q. And did -- how did this come about, did the
16 movie -- did Blackbird LLC reach out to you, did Mr. Kelly
17 put them in touch, how did this come about?

18 A. I'm not sure.

19 Q. And were you paid \$500 for use of the tattoos in
20 the motion picture?

21 A. I think so.

22 Q. Let's take a look at what's been marked as
23 Exhibit 32, a document bearing Bates Number Hayden 1845.
24 Does this appear e-mail exchange that you were copied on
25 between Nadeen Nassar and Barbara Zuckerman dated

1 MR. MCMULLEN: Objection.

2 A. Can you say that question one more time?

3 MS. CENDALI: Sure.

4 BY MS. CENDALI:

5 Q. Have you ever licensed any company to use a
6 tattoo that you inked on a real athlete in merchandising?

7 MR. MCMULLEN: Objection.

8 A. Merchandising, I can't remember, no.

9 Q. Then I'd like to show you what's been marked as
10 Exhibit 33, Hayden 751. This is, I'll tell you, is an
11 unsigned document, or at least a copy we have was, and it
12 seems to refer to a series tentatively entitled Roadies.
13 Do you see that?

14 A. Uh-huh.

15 Q. Do you know whether you ever entered into an
16 agreement permitting the Roadies television program to use
17 any of the tattoos that you inked on Machine Gun Kelly?

18 A. I think so, yeah.

19 Q. And the cost of that -- the fee you obtained was
20 a \$500 fixed fee, is that right?

21 A. Yeah, I think so.

22 Q. And -- and I take it the Roadies program was not
23 about video games; it wasn't a video game, right?

24 A. No avatar production in this, no.

25 Q. All right. So let me, for sake of completion,

1 let me show you what's been marked as Exhibit 34, Hayden
2 1613, what appears to be a letter from a Todd Kravitz to
3 Justin. Who is Justin?

4 A. I don't know.

5 Q. It says, Permission Request For The film Captive
6 State. Do you see that?

7 A. Yes.

8 Q. Do you understand that there came a time when the
9 film directors of a feature film entitled Captive State
10 wanted to include Machine Gun Kelly?

11 A. I can't remember this one.

12 Q. All right. Well, let me show you what's been
13 marked as Exhibit 35, Hayden 230. This appears to be an
14 unsigned release involving the film Captive State and the
15 use of tattoos on Machine Gun Kelly. Do you know whether
16 you ever entered into this agreement?

17 A. I can't remember if we did or not. I think so,
18 though.

19 Q. And the -- the sum you were to receive was a
20 fixed fee of \$1,000, is that right?

21 A. I think so.

22 Q. Who is Teyana Taylor?

23 A. She's an actress.

24 Q. Have you inked tattoos on her?

25 A. Yes.